IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6001 OF 2007

M/s.Premier Industries .... Petitioner

versus

Punit Surendrakumar Kothari..... Respondent.

Mr. M.S. Bhandari for the petitioner
Mr. Abhishek Punglia with Neel Pungliya for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 26TH SEPTEMBER, 2007

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. The present petitioner is the defendant whereas the respondent is the plaintiff. The respondent/plaintiff instituted a suit based on the promissory note for recovery of a sum of Rs. 6 lacs and interest. The petitioner denied the claim made in the suit and moved an application seeking permission to defend the suit. The application moved under Order 37 Rule 5 of CPC has been allowed by the trial court subject to deposit of an amount of Rs.6 lacs. It is this order which is challenged in the present writ petition.

3. Both the learned counsel appearing for the respective parties are in agreement that the impugned order passed by the trial court be modified by directing the petitioner to deposit Rs.3 lacs and subject to such deposit the petitioner be granted permission to defend the suit. As both the learned advocates have agreed to the above modification without recording any reason, I dispose of the writ petition by modifying the impugned order dated 4-7-2007. The petitioner shall deposit in the trial court a sum of Rs. 3 lacs within 60 days from today, within which time the respondent shall also file the written statement. On such deposit being made, leave as prayed for is granted. Writ petition is accordingly disposed of. Rule made abolute in the above terms.

....